

IN THE HIGH COURT OF SINDH KARACHI

Const. Petition No. S-1419 of 2025

(Muhammad Saqib Khan - v - Mst. Ismat Saira Gillani)

Date	Order with signature(s) of Judge(s)
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Hg:/Priority.

1. For orders on Misc. No.9143/25
2. For orders on office objections.
3. For hearing of Misc. No.9036/25
4. For hearing of main case.

19.12.2025.

Mr. Qamar Hussain, Advocate for the Petitioner along with minors.

Mr. Mukesh Kumar Talreja, Advocate for the Respondent.

ORDER

Nisar Ahmed Bhanbhro, J. This petition is directed against the order dated 06.12.2025, whereby the petitioner was directed to hand over the custody of the minors, namely Muhammad Shafay and Hamna Saqib, to the respondent mother Ismat Saira, from 12.12.2025 at 11:00 a.m. until 25.12.2025 at 07:00 p.m., through the Nazir of trial Court, subject to submission of the respondent's original passport and furnishing P.R. bonds in the sum of Rs. 5 million. Learned counsel for the petitioner placed on record documents reflecting that the minors were engaged in examinations, which were scheduled to be completed on 17.12.2025, considering the difficulties the minors might have faced during their mid-term examinations, the operation of the impugned order was suspended. Today learned counsel for the petitioner has argued the matter at length. The crux of his arguments is that the respondent, being the mother, is not entitled to the custody of the minors

for such long period of time. Learned counsel for the petitioner was confronted with the laws applicable in the foreign country where the respondent is residing, as well as the laws of the land which dis-entitled the mother from custody of the minors for a period of only ten days. Counsel for the petitioner failed to justify his contention.

During Today's hearing, in the earlier part of the day, when minors who are well brought up were inquired about their willingness for a short stay with mother, they pointed eyes to father and refused to join mother. In the said situation father was asked to go outside the court premises and minors were directed to sit with their mother. In absence of father they comfortably sat with mother and remained with her for a period of One hour. Again the matter was taken up at 11:00 PM, the minors changed mood in presence of father, which demonstrated that minors were not comfortable and were under duress and influence of father.

Since the mother has come from USA to have company of minors for a short period of time of winter vacations, despite of Court's clear Orders father was unwilling to allow the minors to meet with their mother, such conduct on the part of father cannot be appreciated at all. From the conduct of the petitioner, it appears that the minors are being tutored, which may cause an adverse effect on their growth. Tutoring the minors against either parent is against the laws of the land as well as the Children's Rights Act, 1989, to which Pakistan is an unqualified party. The petition stands disposed of in the above terms. Since the mother has been granted custody only for an interim period of one week, the father, in all circumstances, should have no objection thereto.

In the given circumstances, no case for indulgence of this Court is made out. Consequently, this petition is dismissed; however, the meeting of the minors as scheduled by the trial Court is modified to the extent that custody of the minors shall be handed over to the mother by tomorrow, i.e., 20th December, 2025 at 12:00 noon until 25th December, 2025, at 5:00 PM by the Trial Court. The petitioner shall not remove the custody of the minors

from Karachi, and in case he removes the minors from Karachi, he may be imposed a heavy cost amounting to Rs 05- millions to be paid to the respondent/mother. It is the duty of the petitioner to ensure that the children meet their mother in a cordial atmosphere. The petitioner is directed to produce the minors before the trial Court tomorrow at 10:00 a.m., without fail.

A copy of this order shall be sent by facsimile to the learned trial Court.

JUDGE